

REMARKS

The present application was filed on March 30, 2004 with claims 1-23. In the outstanding Office Action dated May 25, 2005, the Examiner has: (i) rejected claims 1-23 under 35 U.S.C. §112, second paragraph as being indefinite; and (ii) rejected claims 1-23 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,826,246 to Brown et al. (hereinafter “Brown”); in view of U.S. Patent No. 6,292,061 to Qu (hereinafter “Qu”), and further in view of U.S. Patent No. 6,828,654 to Tam et al. (hereinafter “Tam”).

In this response, claims 1, 3, 4, 6, 16, 20 and 23 have been amended. Applicant traverses the §112 and §103(a) rejections of the claims for at least the reasons set forth below. Applicant respectfully requests reconsideration of the present application in view of the above amendments and the following remarks.

An acknowledgment of the receipt of formal drawings filed on May 20, 2004 in the present application is respectfully requested.

Claims 1-23 stand rejected under §112, second paragraph, as being indefinite. With regard to claim 1, the Examiner contends that “it is unclear what the ‘designated region’ on line 8 and ‘capacitance per unit area’ on line 9 are and how the capacitance per unit area can be ‘optimized’” (Office Action; page 2, paragraph 3). Applicant respectfully disagrees that the language set forth in claim 1 renders the claim indefinite. The specification provides clear examples for defining the “designated region of operation” and how a capacitance per unit area of the MOS device can be “optimized.” For instance, the specification, on page 10, lines 10-13, states that “the thick-oxide NMOS devices used to implement at least capacitor 218, and preferably capacitor 216 as well, are each biased at a substantially constant operating point which substantially maximizes a capacitance per unit area of the device” (emphasis added). Applicant also disagrees with the Examiner’s contention that claim 1 provides “no means for performing the selecting function.” *Id.* It is clear from the language in claim 1 that the reference voltage which is generated across the MOS transistor is controlled (“maintained”) by the bias circuit. Notwithstanding the above traversal, claim 1 has been amended to provide further clarity, and is therefore believed to address the Examiner’s rejection. Claims 16, 20 and 23 have been amended in a similar manner.

With regard to claims 3 and 4, the Examiner contends that the recitation “the substantially constant voltage source” lacks clear antecedent basis (Office Action; page 2, paragraph 4). Claims 3 and 4 have been amended, namely, by deleting the phrase “substantially constant.” As amended, proper antecedent support for the element “the voltage source” recited in claims 3 and 4 is clearly provided in claim 1, from which the subject claims depend. The amendments to claims 3 and 4 are, therefore, believed to address the Examiner’s rejection.

With regard to claim 6, the Examiner contends that the recitation “substantially constant reference voltage” is confusing because it is unclear whether this phrase is an additional reference voltage or a further recitation of “the reference voltage” previously set forth in claim 1 (Office Action; page 2, paragraph 5). This phrase is intended to be a further recitation of the “substantially constant reference voltage” introduced on line 9 of claim 1, and therefore claim 6 has been amended in a manner which is believed to address the Examiner’s rejection.

With regard to claims 16 and 23, the Examiner contends that the recitation “the variable frequency oscillator” lacks clear antecedent basis (Office Action; page 2, last paragraph). In order to address the Examiner’s rejection, the phrase “the variable frequency oscillator” set forth in claims 16 and 23 has been amended to read “the variable frequency generator.” Proper antecedent support for this element appears in line 2 of claim 16 and on line 3 of claim 23. Consequently, the amendments to claims 16 and 23 are believed to address the Examiner’s rejection.

In view of the foregoing, Applicant respectfully requests withdrawal of the §112 rejection of claims 1-23.

Claims 1-23 stand rejected under §103(a) as being unpatentable over Brown, in view of Qu and Tam. Applicant asserts that Brown is not believed to be available as prior art for the purpose of sustaining an obviousness rejection against the claimed invention. Specifically, Brown, which was filed prior to but issued after the filing date of the present application, and the claimed invention were, at the time the invention was made, owned by the same entity or subject to an obligation of assignment to the same entity, namely, Agere Systems Inc. In the present application, this assignment was recorded on March 30, 2004, at reel 015164, frame 0973.

As set forth in 35 U.S.C. §103(c), “[s]ubject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this

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title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.”

For at least the reasons set forth above, Applicants submit that claims 1-23 are patentable over the prior art of record. Accordingly, favorable reconsideration and allowance of these claims are respectfully solicited.

In view of the foregoing, Applicant believes that pending claims 1-23 are in condition for allowance, and respectfully request withdrawal of the §112 and §103 rejections.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Wayne L. Ellenbogen", with a long horizontal flourish extending to the right.

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